

MINUTES
BOARD OF SUPERVISORS
COUNTY OF YORK

Regular Meeting
January 18, 2005

7:00 p.m.

Meeting Convened. A Regular Meeting of the York County Board of Supervisors was called to order at 7:00 p.m., Tuesday, January 18, 2005, in the Board Room, York Hall, by Chairman James S. Burgett.

Attendance. The following members of the Board of Supervisors were present: Walter C. Zarembo, Sheila S. Noll, Kenneth L. Bowman, James S. Burgett, and Thomas G. Shepperd, Jr.

Also in attendance were James O. McReynolds, County Administrator; J. Mark Carter, Assistant County Administrator; and James E. Barnett, County Attorney.

Invocation. Reverend Charles Thomas, Rising Sun Baptist Church, gave the Invocation.

Pledge of Allegiance to the Flag of the United States of America. Chairman Burgett led the Pledge of Allegiance.

HIGHWAY MATTERS

Mr. David Steele, Resident Engineer, Virginia Department of Transportation (VDOT), appeared to answer any of the Board's questions and provide an update on area roads. He reported that the traffic and speed studies for Victory Boulevard and Heavens Way were completed, and the findings did not warrant a traffic signal or speed reduction at this time. Drainage corrections have been made to the area, along with the installation of a yield sign at Polaris Drive and Heavens Way. He stated it was not feasible to add the stripes to Victory Boulevard and Heavens Way at this time, but the intersection of Big Bethel and Polaris Drive would be double striped once the weather warms up. He noted that work has been done on drainage problems at Oriana and Burts Road, with more work to be done in the future. He updated Mr. Zarembo on the third entrance to the Lightfoot Wal-Mart, and noted a speed reduction along that road had been approved from 45 mph to 35 mph. He stated the berm adjacent to the entrance was an issue between the developer and the owner of the property and, once removed, VDOT would reevaluate the safety of the entrance. Mr. Steele then reported on the snowstorm of December 26, stating his crews worked 24 hours a day to help restore transportation to the County.

Mr. Bowman asked for an update on the drainage status and speed study of Wildey Road.

Mr. Steele stated he would provide the drainage update and speed study next month.

Mr. Zarembo questioned the installation of a traffic signal at the Mooretown and Lightfoot Roads intersection.

Mr. Steele stated that VDOT had looked at it, and it warranted a signal. He stated he would let the Board know when it would be installed.

Mr. Shepperd commended VDOT for the great job it did of snow removal after Christmas.

PRESENTATIONS

INTRODUCTION OF NEW MEMBERS TO YORK COUNTY BOARDS AND COMMISSIONS

Chairman Burgett introduced and welcomed Mr. Spencer Gaarder to the Stormwater Advisory Committee and Mr. William Cooper to the Transportation Safety Commission. He then presented both with York County Boards and Commissions Handbooks and lapel pins.

VIRGINIA ALCOHOL SAFETY ACTION PROGRAM (VASAP)

Mrs. Julia Allaman, Chairman of the Virginia Alcohol Safety Action Program (VASAP), appeared to update the Board on VASAP's mission and to raise awareness of its programs in the County. She explained that the program strives to improve highway safety by decreasing the incidents of driving under the influence of alcohol or drugs. She listed some of VASAP's benefits to the approximate 40,000 yearly offenders.

WILLIAMSBURG AREA CONVENTION AND VISITORS BUREAU

Mr. David Schulte, Executive Director of the Williamsburg Area Convention and Visitors Bureau, provided the Board with a report on the area's tourism during 2004, and on future marketing efforts to increase tourism. He discussed the Bureau's marketing plan, the goals of the Williamsburg Area Destination Marketing Committee's campaign, and he mentioned some of the area's new attractions which may help increase tourism in 2005.

CITIZENS COMMENT PERIOD

No one appeared at this time to speak to the Board.

COUNTY ATTORNEY REPORTS AND REQUESTS

Mr. Barnett discussed the General Assembly's session and the bills he was tracking. He reported on a photo monitoring bill that would allow localities to adopt photo monitoring. He mentioned several bills regarding mopeds, one sponsored by Delegate Rapp which would allow localities to regulate and prohibit the use of mopeds and motorized scooters on public or private streets. He explained there were a number of bills that would limit the General Assembly's ability to adopt budget increases. He also reported on the following bills: HR653 concerning total budgets exceeding total personal income in the Commonwealth of Virginia. HB1785 and SB758 that deal with the prohibition of firearms in libraries. HJR699 would enact a constitutional amendment prohibiting the General Assembly from limiting the authority of localities to regulate the carrying of loaded handguns on public property, and SB850 would allow the carrying of firearms on public property. HB2532 would allow concealed handguns on school property as long as it is in a motor vehicle in a parking lot. HB1566 would allow local governments to adopt a recordation tax of up to \$250 in higher growth jurisdictions. HB2498 would allow local governments to adopt local income taxes, either one-half percent or a full percent. Mr. Barnett indicated he would email the entire list of the updates to the Board members.

COUNTY ADMINISTRATOR REPORTS AND REQUESTS

Mr. McReynolds reminded citizens of the Board's changes in its Rules and Procedures concerning the Board's meeting formats. He detailed the changes for the first meeting of the month, and stated that the second meeting of the month would continue with the same format currently used. He then reminded the Board of its upcoming meeting schedule.

MATTERS PRESENTED BY THE BOARD

Mr. Bowman announced that a telephone survey would soon be conducted that will be used for the Comprehensive Plan study. He encouraged everyone to participate in the phone call. He thanked the members on the Transportation Safety Commission with whom he served during the past year. He stated he would be serving as liaison to the Youth Commission this year and is looking forward to working with the students.

Mr. Zaremba encouraged all citizens to become involved with the 2006-07 budget that was now in the planning stages. He mentioned the Board's joint meeting with the School Board to discuss the projected figures for increased revenue during the FY2006 timeframe, stating the two boards also discussed how those proposed increases would be spent. He discussed the County's budget of approximately \$96 million, and the School Division's budget that exceeds \$100 million. Mr. Zaremba stated the projections are for an increase in revenue of approximately \$7.1 million, and he pointed out that this is not a tax assessment year, and that the

increased expenditures must be met. He encouraged citizens to let their supervisors know their concerns and to become involved.

Mrs. Noll expressed remorse over the passing of two area citizens this week. Democratic Senator Hunter Andrews passed away at the age of 83, and Ms. Una Reeks, who was 105, passed away also. She reminded women to schedule their annual mammograms and referred to herself as a breast cancer survivor. She encouraged citizen support of the York Poquoson Relay for Life.

Chairman Burgett conveyed his concerns regarding scooters on the roads, and he stated bills are now before the General Assembly that would provide localities with tools to ensure the safety of children. He indicated he would be attending a Workforce Development Consortium meeting concerning the proposed merger of the two economic development entities. He noted that the workforce segment would remain on the Peninsula, and the merger would result in the Alliance being relocated to the Southside. Mr. Burgett then reported on his attendance at the business after hours function at the Chamber of Commerce, and he announced that February is Black History Month. He then asked the Board members to bring their calendars to the next meeting to coordinate a date for the annual retreat. He then discussed a newspaper article concerning the phenomenal costs of burying power lines.

Meeting Recessed: At 7:53 p.m. Chairman Burgett declared a short recess.

Meeting Reconvened: At 8:00 p.m. the meeting was reconvened in open session by order of the Chair.

PUBLIC HEARINGS

APPLICATION NO. UP-652-05, TIDEWATER DEVELOPMENT COMPANY, LLC

Mr. J. Mark Carter, Assistant County Administrator, gave a presentation on Application No. UP-652-05 to approve a use permit authorizing a retail center of more than 80,000 square feet of gross floor area located at 6690 Mooretown Road and a portion of 6500 Mooretown Road. The Planning Commission considered the application and forwarded it to the Board of Supervisors with a recommendation of approval, and staff recommended approval of the application through the adoption of proposed Resolution R05-8.

Mrs. Noll expressed concern over the aesthetics of the building and asked if Board approval was required before developing the outparcel.

Mr. Carter explained the roof color and stated that unless the outparcel would house a building in excess of 80,000 square feet or if it was something that would require a use permit, the applicant would not have to come back. He pointed out that there was a 45-foot greenbelt buffer required on Mooretown Road.

Mr. Zaremba voiced concern over the development of the outparcel and what might go on the property adjacent to Michaels Commons. He stated he felt there should be standards put into place for the architectural styles of the buildings.

Discussion followed on the outparcel development and the buildings' aesthetics.

Mr. Bowman referred to the landscaping that Home Depot will have to remove and relocate.

Mr. Carter explained that Home Depot was part of this application, and it was aware of the requirement to relocate the landscaping.

Mr. Shepperd asked about the input of the City of Williamsburg.

Mr. Carter stated Williamsburg was concerned about the possibility of a reduction in the watershed overlay buffer. He then provided details concerning the watershed area.

Discussion took place concerning the watershed area, entrances, and ordinances dealing with entrance requirements.

Mr. Robert Brown, 2 Island Court, Poquoson, manager of Tidewater Development Company, recognized and thanked staff for its hard work and spirit that he considered tremendous. He offered to answer any of the Board's questions concerning this application. He explained they hired a consultant for a market study and found that this location would give them a tremendous regional market opportunity. He assured the Board that the project would be top quality to attract upscale merchants.

Mrs. Noll voiced her concern over the coordination of the interior signage, and asked if the colors could be limited.

Mr. Brown stated that it would be tailored, state-of-the-art signage, so that it would be complementary to the buildings.

Discussion took place over signage, lighting, and the similarities of the Monticello Marketplace design in comparison to the proposed shopping center.

Chairman Burgett called to order a public hearing on Application No. UP-652-05 that was duly advertised as required by law. Proposed Resolution R05-8 is entitled:

A RESOLUTION TO APPROVE A SPECIAL USE PERMIT TO AUTHORIZE A RETAIL CENTER OF MORE THAN 80,000 SQUARE FEET OF GROSS FLOOR AREA AT 6500 (PORTION) AND 6690 MOORETOWN ROAD

There being no one present who wished to speak concerning the subject application, Chairman Burgett closed the public hearing.

Mr. Zaremba then moved the adoption of proposed Resolution R05-08 that reads:

A RESOLUTION TO APPROVE A SPECIAL USE PERMIT TO AUTHORIZE A RETAIL CENTER OF MORE THAN 80,000 SQUARE FEET OF GROSS FLOOR AREA AT 6500 (PORTION) AND 6690 MOORETOWN ROAD

WHEREAS, Tidewater Development Company, LLC has submitted Application No. UP-652-05, which requests a Special Use Permit, pursuant to Section 24.1-466(h) of the York County Zoning Ordinance, to authorize a retail center of more than 80,000 square feet of gross floor area located at 6500 (portion) and 6690 Mooretown Road (Route 603) and further identified as Assessor's Parcel Nos. 2-34 (portion) and 2-19-B3; and

WHEREAS, said application has been forwarded to the York County Planning Commission in accordance with applicable procedure; and

WHEREAS, the Planning Commission has submitted its recommendation concerning this application; and

WHEREAS, the York County Board of Supervisors has conducted a duly advertised public hearing on this application; and

WHEREAS, the Board has given careful consideration to the public comments and Planning Commission recommendation with respect to this application;

NOW, THEREFORE, BE IT RESOLVED by the York County Board of Supervisors this the 18th day of January, 2005, that Application No. UP-652-05 be, and is hereby, approved to authorize a Special Use Permit to authorize a retail center of more than 80,000 square feet of gross floor area located at 6500 (portion) and 6690 Mooretown Road (Route 603) and further identified as Assessor's Parcel Nos. 2-34 (portion) and 2-19-B3, subject to the following conditions:

1. This use permit shall authorize a retail center of more than 80,000 square feet of gross floor area located at 6500 (portion) and 6690 Mooretown Road (Route 603) and further identified as Assessor's Parcel Nos. 2-34 (portion) and 2-19-B3.
2. A site plan prepared in accordance with the provisions of Article V of the York County Zoning Ordinance shall be submitted to and approved by the York County Department of Environmental and Development Services, Division of Development and Compliance prior to the commencement of any construction activities on the subject parcel. Except as modified herein, said site plan shall be in substantial conformance with the plan titled "Williamsburg Marketcenter, Mooretown Road and State Route 199, York County, Virginia, Special Use Permit Conceptual Plan," prepared by VHB, dated November 30, 2004, and received by the Planning Division on January 4, 2005, and building elevation titled "Williamsburg Marketcenter," prepared by Freeman Morgan Architects, received by the Planning Division November 1, 2004.
3. Freestanding identification signage for the retail center (exclusive of outparcels) shall be limited to a single monument sign. Fascia materials used on the sign shall match that of the proposed building façade.
4. Free standing and building lighting shall be full cut-off fixtures that are shielded and directed downward to prevent off-site illumination. Illumination levels shall not exceed 0.5 foot candle at any exterior property line. All lighting schemes and lighting fixtures shall be consistent with the lighting recommended by the Illumination Engineering Society of North America (IESNA). A lighting plan indicating manufacturer's specifications for all fixtures and illumination levels for the development site shall be submitted for review and approval at time of application for site plan approval.
5. The applicant shall be responsible for the construction of a County approved gravity sewer system and associated pumping station to serve the retail center if deemed necessary by the Environmental and Development Services Chief of Utilities.
6. To accomplish screening of the parking lot, a minimum 10-foot wide planting area shall be installed along the northeastern border of the proposed outparcels on the retail center parcel. Plantings shall meet minimum ratios for side yards as specified in Section 24.1-242(h), and shall consist of a minimum of 50% evergreen shrubs with remaining plantings to be a mix of evergreen and deciduous trees. These planting areas shall not be located within any vehicular access/egress easements. Any plantings removed for future access to outparcels shall be replaced or relocated within the remaining areas of these planting beds.
7. Notwithstanding provisions of Section 24.1-376(e)(2) of the County Zoning Ordinance, there shall be no reduction of the 200-foot watershed management and protection stream buffer associated with Queen Creek. Reduction of the normally applicable 200-foot buffer along the tributary stream forming the eastern boundary of the property (and downstream of the stormwater management pond) shall be permitted in accordance with all applicable provisions of Section 24.1-376(e)(2) provided that all runoff from the subject site is directed to this or another properly designed stormwater management facility.
8. Rooftop HVAC, electrical and similar utilities shall be screened from view of Mooretown Road.
9. The proposed access to the site shown between outparcel #5 and #6 on the conceptual plan referenced above is not approved pursuant to this Special Use Permit. Such access may be approved in conjunction with site plan approval if, satisfactory to the Plan Approving Agent, the Zoning Administrator and the Virginia Department of Transportation, adequate justification is provided establishing a need for the access as a matter of public safety and addressing the criteria set forth in Section 24.1-252(3)(b) of the Zoning Ordinance.

10. The proposed "potential future outparcel" shown at the southern corner of the site is not associated with this application, and approval of this Special Use Permit does not imply current or future approval of the subdivision.
11. The applicant shall make available direct access between the retail center parking lot and future outparcels as may be subdivided in the area labeled "outparcels #4, #5, #6 and #7 on the conceptual plan referenced above. An access/egress easement shall be established parallel to the northeastern border of these outparcels at time of their subdivision approval.
12. A joint access/egress easement as shown on the conceptual plan referenced above between the Home Depot parcel (Assessor's Parcel No. 2-19-B1) and the subject site shall be established at time of site plan approval. Location and design of such easement shall be subject to the approval of the Plan Approving Agent.
13. Any required landscaping installed on the Home Depot parcel removed for redevelopment of the joint access area referenced in Condition #13 above shall be relocated or replaced on the home Depot Parcel in the immediate area of the easement or in such other location determined appropriate by the Plan Approving Agent.
14. At the time of subdivision approval, a restricted access easement satisfactory to the Plan Approving Agent shall be established parallel to Mooretown Road across the entire frontage of the parcels subject to this Special Use Permit identified as Assessor's Parcel Nos. 2-19-B3 and 2-34 (portion).
15. Calculation of minimum required parking spaces shall be exclusive of spaces utilized for cart storage uses.
16. In accordance with the provisions of Section 24.1-115(d) of the Zoning Ordinance, significant modifications to this approval as determined by the Zoning Administrator shall require that a new use permit application be submitted for review. Modifications can be administratively approved if the Zoning Administrator determines the modification to be minor.
17. In accordance with Section 24.1-115(b)(7) of the York County Zoning Ordinance, a certified copy of the resolution authorizing this special use permit shall be recorded at the expense of the applicant in the name of the property owner as grantor in the office of the Clerk of the Circuit Court.

On roll call the vote was:

Yea: (5) Zaremba, Noll, Bowman, Shepperd, Burgett
Nay: (0)

FEE FOR INSUFFICIENT FUNDS

Mr. Barnett gave a presentation on proposed Ordinance No. 04-29 to amend the York County Code to provide for a \$35.00 fee for the passing of any check or draft to the County which was subsequently returned for insufficient funds.

Chairman Burgett called to order a public hearing on proposed Ordinance No 04-29 that was duly advertised as required by law and is entitled:

AN ORDINANCE AMENDING YORK COUNTY CODE SECTION 2-2 TO PROVIDE FOR A \$35.00 FEE FOR THE PASSING OF ANY CHECK OR DRAFT TO THE COUNTY WHICH IS SUBSEQUENTLY RETURNED FOR INSUFFICIENT FUNDS; AND SECTIONS 2-35 AND 2-47 TO CORRECT REFERENCES TO THE VIRGINIA CODE FROM TITLE 15.1 TO THE APPROPRIATE SECTIONS OF TITLE 15.2, CODE OF VIRGINIA

There being no one present who wished to speak concerning the subject ordinance, Chairman Burgett closed the public hearing.

Mr. Bowman then moved the adoption of proposed Ordinance No. 04-29 that reads:

AN ORDINANCE AMENDING YORK COUNTY CODE SECTION 2-2 TO PROVIDE FOR A \$35.00 FEE FOR THE PASSING OF ANY CHECK OR DRAFT TO THE COUNTY WHICH IS SUBSEQUENTLY RETURNED FOR INSUFFICIENT FUNDS; AND SECTIONS 2-35 AND 2-47 TO CORRECT REFERENCES TO THE VIRGINIA CODE FROM TITLE 15.1 TO THE APPROPRIATE SECTIONS OF TITLE 15.2, CODE OF VIRGINIA

BE IT ORDAINED by the York County Board of Supervisors, this 18th day of January, 2005, that York County Code section 2-2, Fee for passing bad check to county; section 2-35, General duties; and section 2-47 Created; powers, be amended to read and provide as follows:

Sec. 2-2. Fee for passing bad check to county.

Any person who utters, publishes or passes any check or draft, for payment of taxes or any other sums due the county, which is subsequently returned for insufficient funds or because there is no account or the account has been closed, shall pay to the county a fee of thirty-five dollars (\$35.00), in addition to the amount of such check or draft.

* * *

Sec. 2-35. General duties.

The county administrator shall perform all the duties set forth within the terms of section 15.2-1541, Code of Virginia, and such other duties as may be prescribed by the board of supervisors.

* * *

Sec. 2-47. Created; powers.

There is hereby created a political subdivision of the Commonwealth of Virginia with such public and corporate powers as are set forth in the Industrial Development and Revenue Bond Act (chapter 49, title 15.2, Code of Virginia) including such powers as may hereafter be set forth from time to time in such act.

On roll call the vote was:

Yea: (5) Noll, Bowman, Shepperd, Zaremba, Burgett
Nay: (0)

AMENDMENTS TO YORK COUNTY CODE: CHAPTER 19, SOLID WASTE, GARBAGE AND WEEDS

Mr. John Hudgins gave a presentation on proposed Ordinance No. 04-31 to amend Chapter 19 of the York County Code. He explained some of the changes being proposed and how it would affect County residents, and he noted the major change concerned the collection and disposal of solid waste.

Chairman Burgett called to order a public hearing on proposed Ordinance No. 04-31 that was duly advertised as required by law and is entitled:

AN ORDINANCE TO AMEND CHAPTER 19 OF THE YORK COUNTY CODE, SOLID WASTE, GARBAGE, AND WEEDS, TO AMEND THE DEFINITION OF "SOLID WASTE" AND ADD A DEFINITION FOR "UNACCEPTABLE WASTE," DEFINE PARAME-

TERS FOR SOLID WASTE COLLECTION SERVICES, INCLUDING THE COLLECTION OF YARD WASTE AND BULKY ITEMS, AND GENERALLY RESTRICT THE PLACEMENT OF BAGS OR BUNDLES OF WASTE MATERIALS FOR COLLECTION OUTSIDE OF A COUNTY-FURNISHED CONTAINER, AND INCREASE CERTAIN FEES FOR THE COLLECTION AND DISPOSAL OF SOLID WASTE AND YARD WASTE

Mr. John Mandaro, 395 Fenton Mill Road, voiced concern over the lack of recycling and fee increases associated with this change. He stated he felt the citizens were being discouraged to recycle if they were offered more trash receptacles. He also voiced objections to the suggested fee for a second debris pickup. He stated he still has a large amount of debris left from Hurricane Isabel.

There being no one else present who wished to speak concerning the subject ordinance, Chairman Burgett closed the public hearing.

Mr. Shepperd addressed staff's effort to establish better trash collection and to save the County a substantial amount of money. He explained that adjustments had to be made in the debris pickup costs due to the massive size and amounts of downed trees and the overuse of the trucks.

Mrs. Noll then moved the adoption of proposed Ordinance No. 04-31 that reads:

AN ORDINANCE TO AMEND CHAPTER 19 OF THE YORK COUNTY CODE, SOLID WASTE, GARBAGE, AND WEEDS, TO AMEND THE DEFINITION OF "SOLID WASTE" AND ADD A DEFINITION FOR "UNACCEPTABLE WASTE," DEFINE PARAMETERS FOR SOLID WASTE COLLECTION SERVICES, INCLUDING THE COLLECTION OF YARD WASTE AND BULKY ITEMS, AND GENERALLY RESTRICT THE PLACEMENT OF BAGS OR BUNDLES OF WASTE MATERIALS FOR COLLECTION OUTSIDE OF A COUNTY-FURNISHED CONTAINER, AND INCREASE CERTAIN FEES FOR THE COLLECTION AND DISPOSAL OF SOLID WASTE AND YARD WASTE

ARTICLE I. IN GENERAL

Sec. 19-1. Definitions.

For the purposes of this chapter, the following words and terms shall have the meanings ascribed to them by this section.

Collection. Removal of solid waste from its place of origin or storage to a transportation vehicle.

Collection vehicle. Any vehicle used to collect or transport solid waste.

Collector. Any person engaged in the business of the collection and transportation of solid waste.

Commercial/business waste. Solid waste emanating from establishments engaged in business. This category includes but is not limited to solid waste resulting from such establishments as stores, markets, office buildings, restaurants, shopping centers, theaters and waste from households that are not eligible for the county's residential waste collection service.

Compacted refuse. Refuse or waste which has been reduced in volume by mechanical or hydraulic means and remains in this state of reduced volume until deposited at a disposal facility.

Construction, clearing and/or demolition debris. The waste building material, packaging and rubble resulting from construction, land clearing, remodeling, repair and demolition operations on pavements, houses, vacant land, commercial buildings and other structures.

County administrator. The county administrator of York County, Virginia, or his authorized designee.

Disposal facility. Any site used for the disposal of solid waste including but not limited to transfer stations, resource recovery complexes, recycling centers, sanitary landfills, drop-off convenience centers, and composting plants.

Foreign growth. Any plant or grouping or mass of plants, including grass and weeds, whether or not indigenous.

Garbage. Putrescible animal or vegetable waste resulting from the handling, preparation, cooking, serving or consumption of food.

Hazardous waste. Solid waste which because of its inherent nature and/or qualities requires special handling during disposal to avoid creating environmental damage or hazards to public health or safety or landfill operations. Hazardous waste includes but is not limited to such items as petroleum waste, paints, plastics, explosives, acids, caustics, chemicals, poisons, drugs, radioactive materials, asbestos fibers, imported wool fibers, pathogenic wastes from hospitals, sanitariums, nursing homes, clinics and veterinary hospitals, waste from slaughterhouses, poultry processing plants and the like. (Residential solid waste normally contains some hazardous materials but because such materials are usually present in very small quantities their safe disposal either in a sanitary landfill or incinerator presents no special problem. Therefore, residential waste is not considered to be hazardous within the meaning of hazardous waste as used in this chapter.)

Household waste. See "residential/household waste."

Industrial waste. All solid waste resulting from manufacturing and industrial processes such as, but not limited to, those carried on in factories, processing plants and slaughterhouses.

Institutional/governmental waste. Solid waste resulting from operations or activities of the Commonwealth of Virginia, its political subdivisions or agencies of the United States government.

Mixed Paper. Paper accepted for recycling that includes but is not limited to bond paper, computer paper, magazines, catalogs, bulk mailings, telephone and other directories, single layer cardboard, box board, and similar kinds of material.

Occupant. The person who resides on premises as owner or tenant.

Open dump. An unregulated disposal site that is operated without the required compaction and cover.

Refuse. All solid waste of a community.

Residential/household waste. Solid waste resulting from single detached family homes or condominiums, apartments, townhouses, trailers or duplexes.

Sanitary landfill. A land site on which engineering principles are utilized to bury deposits of solid waste without creating nuisances or hazards to public health or safety.

Solid waste. As defined in 9 VAC 20-80-140 of the Solid Waste Management Regulations, Department of Environmental Quality, Commonwealth of Virginia.

Transfer Station: Any solid waste storage or collection facility at which solid waste is transferred from collection vehicles to haulage vehicles for transportation to a central solid waste management facility for disposal, incineration or resource recovery.

Transportation. The transporting of solid waste from the place of collection to a disposal facility.

Trash. Any and all rubbish, cans, bottles, containers, plastic, paper, cardboard or other discarded material of an inorganic nature.

Unacceptable Waste: shall mean those types of Solid Waste prohibited by Chapter 19, York County Code, as in effect of the date of this Agreement, from being transferred at a County-operated Disposal Facility including, but not limited to waste, in any amount, which is defined, characterized or designated as hazardous by the United States Environmental Protection Agency or appropriate state agency by or pursuant to federal or state law; biomedical waste; or any other waste which by its nature, characteristic or quantity cannot lawfully be disposed at a permitted sanitary landfill without special handling. For the purpose of this Agreement, the term Unacceptable Waste shall also include batteries, tires, gasoline, paint and paint cans (except empty paint cans). Unacceptable Waste shall also specifically include, but not be limited to special and restricted waste as follows:

- (a) Special Waste: to include any solid, liquid, semi-solid, gaseous material and associated containers generated as a direct or indirect result of a manufacturing process or from the removal of contaminant(s) from the air, water or land. Examples include, but are not limited to:
 - (1) Asbestos waste
 - (2) Compressed gas cylinders
 - (3) Contaminated food products and fabrics requiring supervised disposal
 - (4) Contaminated soils resulting from the removal of underground storage tanks (UST)
 - (5) Discarded chemicals and pesticides (not regulated as hazardous waste)
 - (6) Materials from a hazardous waste incident clean-up
 - (7) Hazardous wastes generated by small quantity generators
 - (8) Incinerator ash
 - (9) Industrial process waste
 - (10) Infectious waste
 - (11) Low specific activity radioactive wastes
 - (12) Oil spill clean-up
 - (13) Outdated products
 - (14) Pesticide containers
- (b) Restricted Waste including:
 - (1) Tree limbs, logs, stumps or wood products larger than 6" in diameter and 6' in length
 - (2) Heating boilers (cast iron or tube type) or iron rods and steel pipe over 6' long
 - (3) Automotive engine blocks

- (4) Automobile or truck frames or trailers
- (5) Large rolls or wire such as telephone, cable TV, electrical or guy wire
- (6) Building or land clearing debris from commercial enterprises, unless permitted by the County Code
- (7) Oil tanks
- (8) Drums that are not empty, properly cleaned and do not have at least one end removed
- (9) Bulk or flammable liquids
- (10) Any incinerated or burned debris

Uncompacted refuse. Refuse or waste which has not been reduced in volume by mechanical or hydraulic means or, if so, has not been maintained in this reduced volume state during transportation to the disposal facility.

Vacant property. A lot or parcel of real property either not improved by any structure or having a structure or structures neither occupied as a residence nor devoted to any other use normally involving the presence of employees or other persons on business days.

Waste. Useless, unwanted or discarded materials.

Waste generator. The person who actually produces the commercial, household, industrial or institutional/governmental solid waste.

* * *

ARTICLE II. DISPOSAL FACILITIES

Sec. 19-20. Disposal facilities.

The county may maintain and operate such disposal facilities as it shall deem necessary in the public interest. Such disposal facilities shall be operated in accordance with regulations promulgated by the Virginia Department of Environmental Quality and in accordance with applicable provisions of the York County Code.

* * *

Sec. 19-23. Use of county disposal facilities—Rules and regulations.

All persons using any county disposal facility shall be subject to the following requirements, the violation of which shall result in punishment in accordance with section 19-4 of this chapter.

- (a) All materials disposed of at county disposal facilities will be inspected and after acceptance shall thereupon become the property of the county and shall be subject to salvage by the county for its own use and benefit. No person shall engage in scavenging at a county disposal facility without a written salvage permit from the county administrator. Such permit shall be subject to conditions designed to improve and promote county disposal facilities and shall not be granted if the activities of the scavenger would interfere with county operations. It is the intent of this provision that a permit not be granted simply to further the business interests of scavengers but that, in addition, the county must derive a substantial benefit therefrom.
- (b) No person shall enter upon, deposit or dump any waste or solid waste at any county disposal facility at any time when such facility is closed.

- (c) All persons using a county disposal facility shall obey the orders and directives of the county employee or contractor in charge thereof.
- (d) The county administrator may issue permits to use county disposal facilities to persons engaged in the service of collecting or disposing of solid waste whether such waste was generated within or without the county, as provided in article III of this chapter. Permits are not necessary for other persons to use county disposal facilities.
- (e) Whenever solid waste brought by any person to a county disposal facility for disposal is such that, in the opinion of the county administrator or his designee, it requires special handling, he may refuse to accept the same or may agree to accept such solid waste upon payment of a service charge based upon the cost of handling and disposing of such waste as set forth in section 19-24.
- (f) All persons desiring to deposit solid waste at any county disposal facility shall pay such fee, if any, for such disposal as shall be set out from time to time by resolution or ordinance of the board of supervisors.
- (g) The county administrator shall be authorized to waive the tipping fee for disposal at the county transfer station for special community activities that support the express goals of the County.
- (h) The county administrator shall be authorized to develop reasonable rules and regulations for the use and operation of county owned disposal facilities not in conflict with the provisions of this chapter. Upon approval by resolution of the board of supervisors of such rules and regulations, the violation of any such rule or regulation shall be deemed a violation of the provisions of this chapter.

Sec. 19-24. Charges and permits for use of county disposal facilities.

- (a) Use of county-owned disposal facilities shall be subject to the following fees and charges:
 - (1) Individual households and qualified small businesses, as defined in section 19-62, which have elected to receive county solid waste collection services and are current in payments for such services may personally or by employees or officers in the case of businesses dispose of their own solid waste, including incidental construction debris generated from their own premises, at a county disposal facility at no additional charge. All other persons including contractors retained by households or by small businesses on county solid waste collection services who dispose of solid waste at the county transfer station for compensation shall pay a fee of forty-two dollars (\$42.00) per ton. This fee shall be prorated for amounts of waste that do not constitute an even ton; provided, however, that a minimum fee of five dollars (\$5.00) per vehicle shall be charged. All fees required to be collected at the time of disposal shall be rounded to the nearest whole dollar. Fees that are collected on a monthly basis pursuant to the provisions of subsection (6) of this section shall be for the exact amount of the fee incurred.
 - (2) There shall be no charge for the disposal of recyclable items, as listed in section 19-70(a), at designated county disposal facilities.
- (b) Persons disposing of waste requiring special handling (including food processing wastes), shall at a minimum pay the applicable tipping fees plus the following amounts:
 - (1) \$ 42.00 - 0 to 3,999 pounds
 - (2) \$52.50 - 4,000 to 6,000 pounds
 - (3) \$70.00 - Over 6,000 pounds

- (4) Additional fees may be required by the county administrator as set forth in paragraph (d) of this section. Animal carcasses will not be accepted at the county's transfer station.
- (c) Prior to the acceptance of industrial or food-processing waste, or any other solid waste requiring special handling, the person desiring to dispose of the same shall secure a permit from the county administrator. Prior to the issuance of such permit, the county administrator shall determine the compatibility of the specific refuse with the method of disposal utilized. In determining such compatibility, the county administrator shall consider disposal volume, difficulty of handling, employee safety, likelihood of equipment damage, and any unusual health and environmental problems and current state and federal regulations. The disposal charge for any such material shall be as a minimum the amount set out in paragraph (b) above, but shall be higher as necessary to cover all cost associated with the special handling requirements, the potential damage to landfill equipment, environmental effects, state and federal rules and regulations regarding the waste and other factors as may be appropriate for such waste. Based on these considerations, the county administrator may require additional special handling charges as necessary from time to time for use at county disposal facilities.
- (d) In the event the disposal facility's scale is inoperative, charges for disposal shall be based upon weight data previously generated for the vehicle hauling such waste and the nature of the waste. The weight data shall consist of not fewer than fifteen (15) previous weighings by the vehicle carrying such waste and shall be modified by a visual inspection of the vehicle if such is feasible. For vehicles for which no history of previous weight data exists or for which insufficient data exists, the following rates shall apply:
 - (1) *Uncompacted refuse*: The charge shall be fifteen dollars (\$15.00) per cubic yard of truck capacity.
 - (2) *Compacted refuse*: The charge shall be twenty-five dollars (\$25.00) per cubic yard of truck capacity.
- (e) Charges imposed under the provisions of this chapter shall be due and may be paid upon entering the disposal facility. At the discretion of the county administrator, bills may be rendered not less than monthly. All bills rendered after the date of adoption of this chapter shall be due and payable upon presentation and at the place designated by the county. If not paid within ten (10) days, the bill will be considered delinquent and a penalty of ten (10) percent or twenty-five dollars (\$25.00), whichever is greater, will be added to the original amount due. Interest at the rate of ten (10) percent per annum shall be charged on the aggregate of the payment and the penalty due beginning with the date the penalty is applied. If any bill shall not be paid within twenty (20) days of the billing date, then disposal privileges shall be terminated.

Sec. 19-24.1. Composting facility.

All yard waste, as defined in section 19-62, that is generated in the county and is not collected by the county's solid waste collection service, may be delivered without payment of a fee by county residents to the composting facility operated at the county's waste management center by the Virginia Peninsulas Public Service Authority (VPPSA). All other persons, including county businesses, delivering yard waste to the composting facility shall pay the fees established by the Virginia Peninsulas Public Service Authority therefor.

* * *

ARTICLE III. COLLECTION OF SOLID WASTE

Sec. 19-40. Permit required, conditions, renewal and revocation.

- (a) *For whom permit required.* No person, including governmental agencies, shall engage in the business of collecting and/or disposing of solid waste in the county without first ob-

taining a permit therefor from the county administrator; provided, however, that this provision shall not be deemed to apply to employees of the holder of any such permit.

- (b) *Application; required information.* Any person desiring to engage in the collection and/or disposal of solid waste in the county shall make written application to the county administrator setting forth the name, phone number and address of such person, a description of the equipment to be used in the collection and transportation, the type or types of solid waste to be collected, the place and/or method of disposal, and such other information as may be reasonably required by the county.
- (c) *Insurance required.* No permit shall be issued until and unless the applicant therefor, in addition to all other requirements set forth, shall file and maintain with the county administrator evidence of a satisfactory comprehensive general liability insurance policy covering all operations of such applicant pertaining to such business and all vehicles to be operated in the conduct thereof, as a minimum, in the amount required by the Commonwealth of Virginia. Such policy shall be provided for written notification to the county by the insured and the insurance carrier, of any cancellation of said policy not less than ten (10) days prior to the effective date of such cancellation.
- (d) *Bonds, permit fees; changes to application.* The applicant shall pay all required fees and furnish any necessary bonds required by this chapter prior to issuance of a permit. No permit holder shall make any changes in the items listed in his original application without first notifying the county administrator. The fee for permits issued pursuant to this section shall be one hundred dollars (\$100.00).
- (e) *Customer list.* Each permit applicant shall certify, prior to the issuance of a permit, that a customer list is maintained that includes street addresses of customers and specifies the rate to be charged for each type of residential service. Such list shall be provided to the county administrator upon request.
- (f) *Expiration of permits; annual renewal.* All permits shall expire on June 30 of the year following the year if issue and permits are renewable annually between June 1 and June 30.
- (g) *Evidence of business license tax payment.* There shall be submitted with each application for a permit evidence that the applicant has paid any applicable business license tax.
- (h) *Maintenance of business office.* No permit shall be issued or continued in effect until and unless the applicant maintains an office for the transaction of business to include the receipt of complaints, the payment of bills, the maintenance of records and the answering of inquiries. Such office shall be staffed during normal business hours with an authorized agent of the applicant, and serviced by a telephone listed in the telephone directory by trade name. Any change of address or telephone number shall be reported to the county administrator within five (5) business days.
- (i) *Permit issuance and conditions.* The county administrator shall issue a permit upon receipt of a completed application and upon a finding that the applicant has complied with the applicable provisions of this chapter and provided that the granting of the permit will not unduly interfere with the provision of services to county residents or the processing of all solid waste generated in the county and will not cause the capacity of any county disposal facility to be exceeded. The county administrator may impose reasonable conditions on any permit deemed necessary to protect the sanitary and efficient operation of the county's disposal facilities. Each permittee operating more than one (1) truck shall separately number each truck and shall display the number of each truck prominently in letters not less than four inches (4") in height on the front of the vehicle and on the passenger's side door.
- (j) *Issuance or denial.* A permit shall be issued or denied within thirty (30) days of the receipt of an application by the county administrator. A permit may be denied issuance or renewal for any violation of this chapter including, but not limited to, failure to pay

delinquent disposal facility charges or for unsatisfactory delivery of customer service. A denial shall be accompanied by reasons for denial in writing. The application shall have a period of ninety (90) days from the date of any such denial within which to conform his application to the requirement of this article and at the expiration of that period the application shall be deemed to have expired.

- (k) *Denial of permit as additional penalty.* In addition to any other penalty, any collector discovered illegally collecting refuse without a permit or violating the terms of an issued permit may be denied a refuse collection permit for a period of one (1) year from the time of the offense.
- (l) *Revocation of permit.* Failure to correct conditions and practices not in accordance with the provisions of this chapter (including nonpayment of tipping fees) within seven (7) days after receipt of written notice of violation shall cause the permit to be revoked by the county administrator.

Sec. 19-40.1. Service areas; disposal of solid waste.

- (a) The provisions of this section are enacted pursuant to the provision of section 15.2-930, Code of Virginia, and other general enabling legislation, and shall apply to all persons engaged in the business of collecting, transporting and/or disposing of solid waste in the county pursuant to a permit issued pursuant to section 19-40.
- (b) For purposes of this article, the entire county is hereby designated as a service area, within which any permittee pursuant to section 19-40 may engage in the business of collecting, transporting and/or disposing of solid waste, in the county, to the extent authorized in such permit, provided that all such solid waste shall be disposed of only in such places as may be designated by the county administrator.
- (c) It shall be unlawful for any person who holds a permit pursuant to section 19-40 to dispose of any solid waste collected in the county pursuant to the permit at any place other than that designated by the county administrator. The provisions of this section shall not apply to:
 - (1) Garbage, trash and refuse generated, purchased or utilized by an entity engaged in the business of manufacturing, mining, processing, refining or conversion except for an entity engaged in the production of energy or refuse-derived fuels for sale to a person other than an entity controlled by or under the same control as the manufacturer, miner, processor, refiner or converter of the energy or refuse-derived fuel;
 - (2) Recyclable materials, which are those materials that have been source-separated by a person, or materials that have been separated from refuse by any person for utilization in both cases as a raw material to be manufactured into a new product other than fuel or energy;
 - (3) Construction debris to be disposed of in a landfill; or in a transfer station operated by the county.
 - (4) Waste oil.
- (d) Nothing contained in this section shall be construed to interfere with or in any way modify the provisions of any existing contract in force in the county of the effective date of this section, if such contract irrevocably requires that all waste collected in the county be delivered to some specific location other than that designated by the county administrator. No renewal of any existing contract upon the expiration of the original term thereof, and no new contract for the collection, transportation or disposal of solid waste shall be entered into after the effective date of this section, unless such renewal or such contract shall conform to the requirements of this section.

ARTICLE IV. SOLID WASTE RECYCLING REPORT**Sec. 19-50. Purpose.**

The purpose of this article is the furtherance of solid waste management and the recycling of solid waste as provided for in section 10.1-1411, Code of Virginia, as authorized by section 15.2-939, Code of Virginia.

* * *

ARTICLE V. SOLID WASTE COLLECTION SERVICE

* * *

Sec. 19-62. Definitions.

For the purposes of this article, the following words shall have the meaning indicated below:

Bags. Disposable, plastic garbage bags that can be sealed, and which when filled do not exceed forty (40) pounds in weight.

Bulky items. Normal household items too large to be placed in the county furnished container, but which the Contractor shall collect as set out herein, including such items as stoves, refrigerators, hot water tanks, washers, dryers, up to 6 rolls of carpet, a set of box springs and mattresses, regular size doors, lawn mowers, grills, or other normal household/business furniture. The term "Bulky Items" does not include dead animals, manure or other waste materials resulting from the operation of a horse or other animal stable, hazardous waste (including, for example, batteries), tires, construction or renovation debris or other items too heavy or too bulky to be handled by a two-man crew.

Container. County furnished wheeled waste containers for each designated household or qualified small business, as needed.

Household. A single detached family home, trailers, duplex, or other residential units that can be serviced by a container.

Long driveway. A private driveway that is greater than one hundred fifty feet (150') in length, measured from the edge of the nearest public right-of-way to the front of a household served by the driveway, and which the County has determined to be eligible for collection service.

Low generator. Solid waste collection services for households or qualified business with one (1) container allotted per customer.

Private lane. A right-of-way listed in the current York County street index as a private lane, the name of which typically is displayed on street signs having a white background with green lettering or black lettering on a yellow background.

Qualified small business. A licensed small business, civic or charitable organization, community or neighborhood association, religious institution, or similar entity capable of being served by one (1) or more ninety-five (95) gallon containers, which entity requests and is approved for service by the county administrator.

Regular Service: Solid waste collection services for households or qualified business with two (2) containers allotted per customer.

Roadside. That portion of the right-of-way adjacent to a paved or traveled public roadway, or adjacent to a private lane or long driveway.

Solid waste. Waste as defined in 9 VAC 20-80-140 of the Solid Waste Management Regulations, Department of Environmental Quality, Commonwealth of Virginia.

Solid waste materials. Solid waste and bulky items.

Yard waste. Grass clippings, leaves, branch, plant materials, roots, branches, and similar biodegradable materials.

Sec. 19-63. Collection services—Generally.

- (a) The county will furnish or cause to be furnished solid waste collection services for all single-family detached residences in the county, the owners or occupants of which agree to receive such services, excluding those on federal property. The county may, at its option, furnish or cause to be furnished solid waste collection services to households other than single-family detached residences, qualified small businesses, and households on federal property.
- (b) The county administrator is authorized to promulgate reasonable rules and regulations not in conflict with the provisions of this chapter for the operation and management of the county's collection system.

Sec. 19-64. Containers.

- (a) Each household and qualified small business that is to receive solid waste collection services from the county shall be provided two (2) containers if Regular Service is elected or one (1) container if Low Generator service is elected. Additional containers may be provided, upon request, for an additional fee, as set out in article 19-73.
- (b) It shall be the responsibility of the owner or occupant of the premises supplied with a container to maintain it in a clean and sanitary condition, and in accordance with any maintenance instructions provided with it. Material including yard waste shall be placed inside bags whenever possible and the bags placed in the containers. When loose material becomes lodged inside of containers, it shall be the responsibility of the customer to dislodge the materials for the purpose of collection.
- (c) Containers shall not be filled to overflowing, and when filled shall not exceed Two hundred (200) pounds in weight. No additional bags, bundles of garbage, yard waste or other solid waste materials may be placed outside of the container for collection.
- (d) Containers shall be placed near edge of pavement or edge of road to enable the automatic arm of the collection vehicle to pick up the container.

Sec. 19-65. Storage of solid waste.

The responsibility for storage of solid waste prior to collection shall be with the occupant of each premise from which it is to be collected. The occupant shall maintain waste storage areas, containers, and the areas surrounding them in a clean, neat and sanitary condition at all times. It shall be the occupant's responsibility to remove any material outside of containers. If trash spillage occurs prior to collection by the County or its Contractor, the occupant shall be responsible for cleanup.

Sec. 19-66. Placement of solid waste for collection by county.

- (a) *Period permitted for placement; placement within enclosures.* On the day scheduled for collection, containers shall be placed at the roadside ready for collection prior to 7 a.m. the day of collection, unless the occupants of the premises have been exempted from this requirement under the provisions of subsections (d) or (e) of this section. Containers shall not be placed at the roadside for collection more than twelve (12) hours before the regularly scheduled collection time, and shall be removed from the roadside no later than midnight of the day of collection. Households or qualified small businesses with driveways in excess of three hundred feet (300') in length may leave their containers

within enclosures near the roadway, if such enclosures comply with all county ordinances and are approved by the county administrator; provided that such containers must be placed at roadside in accordance with the provisions of this section for collection.

- (b) *Dates and time of collection.* The regularly-scheduled collection times shall be once per week, except in the case of inclement weather or other emergencies, on such dates and times as shall be established and announced by the county administrator. Such collection times shall coincide as closely as possible with the county's schedule for the collection of recyclable materials. Collection schedules may be adjusted for holidays.
- (c) *Bags and Bundles of Solid Waste:* No bags, bundles of solid waste or yard waste may be placed outside of a container for collection, nor may any private containers be set out for collection by the County's contractor.
- (d) *Exemption for medical reasons or age.* The county administrator may exempt the occupants of any premises from the roadside collection requirements of subsection (a) of this section and provide for an alternate pickup location, upon the filing by such occupants of an appropriate affidavit, with such documentation as may be required by the county administrator, stating that due to medical reasons or advanced age, none of the occupants are able to place such containers at the roadside for collection.
- (e) *Other types of exemptions.* The county administrator may also exempt, to the extent determined feasible by the county administrator, and if their driveways are of sufficient design to accommodate collection vehicles, the occupants of the following types of premises from the roadside collection requirements of subsection (a) of this section, upon application therefore and upon payment of the additional fees set out in section 19-73:
 - (1) Occupants of premises with driveways no longer than one hundred and fifty feet (150') who desire to have the county transport the refuse to the roadside for collection;
 - (2) Occupants of premises with long driveways (greater than one hundred and fifty feet (150') in length), who place the container adjacent to such long driveway; *and*
 - (3) Occupants of premises with long driveways (greater than one hundred and fifty feet (150') in length) who desire to have the county transport the refuse to a point adjacent to such long driveway.
- (f) *Placement of containers for exempted occupants.* In the event that the occupants of any premises are exempted from the roadside collection requirements of this section, they shall place their containers for collection at such location as may be agreed upon by the county and the occupants. Occupants who are exempted from the roadside collection requirements of this section shall ensure that on their regularly scheduled collection day, access to containers shall be kept clear, and that dogs are secured so as not to impede collection.
- (g) *County not responsible for maintenance of driveways or lanes.* Neither the county nor its agents shall be responsible for maintenance or normal wear and tear on private driveways or private lanes that are used for service pursuant to the provisions of subsection (e) above, and this shall expressly be made a condition of receiving such service.

Sec. 19-67. Bulky Item and Special Yard Waste collection.

- (a) **Bulky Item Collection:**
 - (1) Occupants who receive county collection service and who desire to have bulky items collected must call the county in advance in accordance with a collection schedule to be published by the county administrator. Each household and

qualified small business which has elected to receive collection services from the county is entitled to have three (3) bulky items collected per collection, four (4) times each calendar year. Single family detached and duplex residences which have elected not to receive county service may call the county in advance to receive bulky items collected, for such fee as is established by the board.

- (2) New occupants of a household who elect to receive county collection services are permitted a one (1) time special bulky item collection of up to thirty (30) boxes.
- (3) Individual households and qualified small businesses, which have elected not to receive county service, may call the county to arrange for special bulky item collections for a fee of thirty dollars (\$30.00) per pick up. The county reserves the right to limit the amount of bulky items collected per pick up.

(b) Special Yard Waste Collection

- (1) Yard Waste that is collected by the County through special collection shall be as defined in section 19.62. In addition, limbs or tree trunks shall not exceed 8" (inches) in diameter nor be longer than 10' (feet) in length. York County residents and qualified small businesses shall pay a fee of \$25.00 per pick-up and shall be limited to one collection every three months per household or qualified business. Each applicant requesting additional pickups within the three month period of the initial pickup shall pay a fee of \$250 for each additional pickup.
- (2) York County households or qualified small businesses may transport their own yard waste and tree trunks or limbs up to 24" in diameter and up to 10' long to the VPPSA facility. Tree Service or other commercial contractors transporting such wastes will be charged the VPPSA fee per Section 19-24.1.

Sec. 19-68. Certain solid waste not to be collected.

- (a) It shall be unlawful to deposit in containers for collection and transportation to county disposal facilities any of the following:
 - (1) Hazardous waste as so characterized or designated by the United States Environmental Protection Agency or appropriate state agency by or pursuant to federal or state law;
 - (2) Industrial waste;
 - (3) Construction, renovation, clearing and/or demolition debris;
 - (4) Bulky items;
 - (5) Dead animals;
 - (6) Materials from stables;
 - (7) Batteries or tires;
 - (8) Waste oil;
 - (9) Poisons, acids or caustics;
 - (10) Explosives;
 - (11) Hot ashes;
 - (12) Pool Chemicals
 - (13) Any other unacceptable waste defined above or waste that cannot be disposed of at a permitted landfill without special handling.

- (b) Collection may be refused any premises where the provisions of this article are violated. Violations of this article shall not relieve the responsible owner or occupant from payment of fees required by this article, in the event that such violations prevent collections to be made.
- (c) The following are several types of solid waste that shall be prepared in the manner indicated prior to being placed in a container for collection:
 - (1) *Hypodermic instruments and other sharp articles.* No person shall dispose of or discard any hypodermic syringe, hypodermic needle or any instrument or device for making hypodermic injections before breaking, disassembling, destroying or otherwise rendering the same inoperative and incapable of reuse. Such hypodermic syringe, needle, instrument or device shall not be disposed of without safeguarding by wrapping or securing the same in a suitable manner so as to avoid the possibility of causing injury to collection personnel.
 - (2) *Ashes.* Ashes shall be thoroughly wetted and cooled to the touch.
 - (3) *Pressurized cans.* All pressurized cans containing pesticides or any other dangerous materials shall be relieved of all pressure.
 - (4) *Glass.* All broken glass or any type of glass that may cause injury to collection personnel shall be separately wrapped to prevent injury.
 - (5) *Pesticides and poisons.* All pesticide and poison containers shall be emptied.

Sec. 19-69. Tampering prohibited.

No person shall tamper with any container placed at the roadside for collection. No owner of a dog or other domesticated animal shall permit it to damage or open any container placed at the roadside for collection.

Sec. 19-70. Recycling.

- (a) All households and qualified small businesses are encouraged to recycle the following items:
 - (1) Glass (not including Pyrex glass, window glass, light bulbs, mirrors, china);
 - (2) Cans;
 - (3) Plastic milk jugs;
 - (4) Plastics (not including Styrofoam);
 - (5) Cardboard (not including waxed paper, milk cartons);
 - (6) Newsprint and mixed paper;
 - (7) Aluminum scrap materials.
 - (8) Other material which may be added from time to time.
- (b) All recyclable items listed above are not required to be separated for collection and shall be set out for collection in the recycling bins provided or caused to be provided by the county, and pursuant to the instructions furnished by the county.
- (c) Yard waste shall not be collected for disposal in county disposal facilities, unless it is placed in a county furnished container.

- (d) Yard waste as defined in section 19-62 that is too large to be placed in containers, such as tree limbs, may be collected from any premises in the county by a special collection, which occupants may arrange by calling the county in advance. The cost for each such collection shall be as specified in section 19-67(b)(1).

* * *

Sec. 19-73. Fees and charges.

- (a) Households and qualified small businesses who have elected to receive services from the county shall pay in arrears to the county bi-monthly fees and charges for such services in the following amounts:

	Standard Fee	Reduced fee for those who qualify under section 19-78
Regular service fee	\$26.00	\$20.00
Low generator fee	\$20.00	\$18.00
Extra charge for those who elect service pursuant to subsection 19-66(e)(1)	\$20.00	\$18.00
Extra charge for those who elect service pursuant to subsection 19-66(e)(2)	\$26.00	\$18.00
Extra charge for those who elect service pursuant to subsection 19-66(e)(3)	\$44.00	\$34.00
Extra charge for additional containers per month:	\$13.00	\$13.00

- (b) The above rates shall be effective May 1, 2005.
- (c) All fees and charges for collection service shall be the responsibility of the owner of the premises served. If someone other than the owner occupies the premises, and such person is a recipient of the service and is responsible for the payment of such charges through agreement with the owner and the county, the county will bill such person with the consent and at the written direction of the owner. However, the owner of the premises served shall be responsible for billings of services even if the owner is not the recipient of the service.

* * *

Sec. 19-77. Charge to be assessed for checks returned from bank for insufficient funds or other reasons.

When a check received in payment of service charges or fees is returned by the bank for insufficient funds or any other reason, a service charge of thirty-five (\$35.00) shall be made for each returned check. This charge is to defray the administrative costs to the county of handling and processing returned checks.

On roll call the vote was:

Yea: (5) Bowman, Shepperd, Zaremba, Noll, Burgett
Nay: (0)

CONSENT CALENDAR

Mrs. Noll moved that the Consent Calendar be approved as submitted, Item Nos. 4 and 5, respectively.

On roll call the vote was:

Yea: (5) Shepperd, Zaremba, Noll, Bowman, Burgett
Nay: (0)

Thereupon, the following minutes were approved and resolutions adopted:

Item No. 4. APPROVAL OF MINUTES

The minutes of the following meetings of the York County Board of Supervisors were approved:

January 4, 2005, Regular Meeting

Item No. 5. VDOT REVENUE SHARING PROGRAM: Proposed Resolution R05-2.

A RESOLUTION TO AUTHORIZE THE COUNTY ADMINISTRATOR TO EXECUTE AGREEMENTS WITH THE VIRGINIA DEPARTMENT OF TRANSPORTATION (VDOT) FOR THE ADMINISTRATION OF THE REVENUE SHARING PROJECTS APPROVED FOR YORK COUNTY BY ACTION OF THE COMMONWEALTH TRANSPORTATION BOARD FOR FISCAL YEARS 2004 AND 2005 AND TO APPROPRIATE VDOT REVENUE SHARING FUNDS FOR SAID PROJECTS

WHEREAS, VDOT has approved a Revenue Sharing Program allocation for Route 143 (Merrimac Trail) and Route 162 (Second Street) sidewalk improvements; Route 17/Edgehill and Brandywine drainage improvements; brownstone streets in Yorktown; and, Route 17 street-scaping improvements, and

WHEREAS, the County has pledged and appropriated matching funds for these projects; and

WHEREAS, in accordance with Revenue Sharing Program guidelines, the County has committed to administer and implement the projects;

NOW, THEREFORE, BE IT RESOLVED, by the York County Board of Supervisors, this the 18th day of January, 2005, that the County Administrator be, and hereby is, authorized to execute such agreements between York County and the Commonwealth of Virginia Department of Transportation as are necessary to provide for the implementation of the above noted projects, said agreements to be approved as to form by the County Attorney.

BE IT FURTHER RESOLVED, that Revenue Sharing funds in the total amount of \$431,559 to be received from the Virginia Department of Transportation for the projects be, and hereby are, appropriated in the County Capital Fund and Stormwater Management Fund, as applicable.

NEW BUSINESS

APPROVAL OF 2004 MINUTES

Mr. McReynolds explained that since Mr. Burgett was not the Chairman at the time of the subject meetings held in 2004, the Code of Virginia required that the minutes be read prior to their approval and that the current Chairman be authorized to sign them.

Chairman Burgett polled the Board members, determining that each of them had read the following minutes:

November 30, 2004, Adjourned Meeting.
 December 7, 2004, Regular Meeting.
 December 14, 2004, Adjourned Meeting.
 December 21, 2004, Adjourned Meeting.
 December 21, 2004, Regular Meeting.

Mr. Zaremba then moved that the minutes of the above-listed 2004 Board of Supervisors' meeting be approved and that Chairman Burgett be authorized to sign such.

On roll call the vote was:

Yea: (5) Zaremba, Noll, Bowman, Shepperd, Burgett
 Nay: (0)

MERGER OF ECONOMIC DEVELOPMENT ENTITIES

Mr. McReynolds explained that the merger of the Hampton Roads Economic Development Alliance (HREDA) and the Peninsula Alliance for Economic Development (PAED) has been discussed for some time, and the PAED had requested that the Board take formal action as to whether or not the Board supported the merger.

Chairman Burgett recalled that the Board had discussed this issue at great length and, with the exception of Poquoson, all other localities had voted in favor of the merger. He stated that the York County Board of Supervisors had always stood against the merger.

Mr. Shepperd asked if the Board voted against the merger, would the County still be a member of the Alliance.

Mr. McReynolds explained that membership would be determined through the annual budget.

Mrs. Noll asked who would head up the merged Alliance, and she noted she had not seen any advertisement for the position.

Mr. Rick Weigel, President and Chief Executive Officer (CEO) of the PAED, stated that Jones Hooks was the current president and CEO of the Hampton Roads Economic Development Alliance.

Mr. Zaremba pointed out that the Board's concern would be the marketing element since the majority of the Alliance would relocate to the Southside. He stated he fears the County will not get what it expects out of the merger.

Mr. Weigel related that all 13 communities in Hampton Roads had elected to join the merger, and it would be difficult to market York County if it was not included in the Alliance. He noted the organization left on the Peninsula would be renamed the Peninsula Council for Workforce Development.

Mr. Shepperd acknowledged the Board's consistent position that it is not in support of the merger. He stated he did not feel that a location an hour away would have the County's best interest in mind. He noted he was concerned about providing tax dollars for the Southside, and he stated he would not support the merger.

Mrs. Noll explained that she had been a strong supporter of keeping the Alliance on the Peninsula. She described her difficulty in making this decision, but acknowledged that the majority of the jurisdictions had made the decision to support the merger, and she believed the citizens were best served when there was a united front. She indicated she would vote in favor of the merger, and she encouraged the other Board members to vote the same.

Mr. Zaremba expressed his agreement with Mr. Shepperd's comments, and stated he would not support the merger.

Chairman Burgett stated he had been opposed to this merger since it was first proposed. He stated if he thought it was good for the County, he would be the one insisting on the merger. He stated he viewed the merger as beneficial only for the Southside since the bulk of the staff would be located there. Although opposed to the merger, he stated the County would continue to participate with the Alliance.

Mr. Shepperd moved the adoption of proposed Resolution R05-5 that reads:

A RESOLUTION TO APPROVE THE MERGER AGREEMENT BETWEEN THE PENINSULA ALLIANCE FOR ECONOMIC DEVELOPMENT ("ALLIANCE") and THE HAMPTON ROADS ECONOMIC DEVELOPMENT ALLIANCE ("HREDA")

WHEREAS, the County of York is a member of the Peninsula Alliance for Economic Development; and

WHEREAS, the Executive Committee of the Alliance has voted affirmatively at its meeting held December 22, 2004, to approve the merger agreement between the Alliance and the Hampton Roads Economic Development Alliance (HREDA), generally conveying to the HREDA certain marketing functions as delineated in the agreement, with the Alliance retaining its work force development functions; and

WHEREAS, a meeting of the Board of Directors of the Alliance and its membership is to be held January 26, 2005, at which the Directors, General Membership, and Governmental Membership will vote to approve or not approve the merger agreement; and

WHEREAS, if all bodies vote affirmatively to approve, then a vote to amend the Bylaws and Articles of Incorporation of the Alliance will be necessary in order to be in compliance with the terms of the merger agreement, a vote which requires two-thirds (2/3) of the Directors to vote affirmatively for the approval; a majority of the General Membership to vote affirmatively for the approve; and five-sevenths (5/7) of the Governmental Membership to vote affirmatively for the approval, provided two (2) of the five (5) affirmative votes are cast by the Cities of Newport News and Hampton; and

WHEREAS, in furtherance of the process to approve or not approve the merger agreement, the County shall be asked to vote upon it at the meeting of January 26, 2005, as a member of the Alliance;

NOW, THEREFORE, BE IT RESOLVED by the York County Board of Supervisors this the 18th day of January, 2005, that it does hereby vote affirmatively for approval of the merger agreement between the Peninsula Alliance for Economic Development and the Hampton Roads Economic Development Alliance, and does also vote affirmatively to effect the attendant changes necessary in the Bylaws and Articles of Incorporation of the Alliance in order to be in compliance with the terms of the merger agreement, and shall so cast its vote, either in person or by proxy at the January 26, 2005, joint meeting of the Directors and Members.

On roll call the vote was:

Yea: (1) Noll
Nay: (4) Bowman, Shepperd, Zaremba, Burgett

APPLICATION NO. UP-657-05, JAMES-YORK PLAZA, LLC

Mr. Carter gave a presentation on Application No. UP-657-05 to approve a minor expansion of James-York Plaza Shopping Center located at 701A Merrimac Trail. He explained the applicant was proposing a 9,000 square foot expansion on the northwestern end of the center. He stated staff recommended approval of the application by the adoption of proposed Resolution R05-6.

Mr. Zaremba moved the adoption of proposed Resolution R05-6 that reads:

A RESOLUTION TO APPROVE A MINOR EXPANSION OF THE
JAMES-YORK PLAZA SHOPPING CENTER, A LEGALLY CON-
FORMING SPECIAL USE LOCATED AT 701A MERRIMAC TRAIL
(ROUTE 143)

WHEREAS, James-York Plaza, L.L.C. has submitted Application No. UP-657-05, which seeks to authorize a 9400-square foot addition to the existing James-York Plaza shopping center located on a 15.7-acre parcel of land at 701A Merrimac Trail (Route 143) and further identified as Assessor's Parcel No. 10-2-1; and

WHEREAS, the proposed addition constitutes an increase in floor area of greater than 5% and less than 25% and is, therefore, subject to the provisions set forth in Section 24.1-115(d) of the York County Zoning Ordinance; and

WHEREAS, the York County Board of Supervisors has determined that there will be no detrimental impact on any adjacent property as a result of the expansion of the facility and that it is consistent with the Comprehensive Plan;

NOW, THEREFORE, BE IT RESOLVED by the York County Board of Supervisors this the 18th day of January, 2005, that Application No. UP-657-05 be, and it is hereby, approved to authorize a 9400-square foot addition to the existing James-York Plaza shopping center located on a 15.7-acre parcel of land at 701A Merrimac Trail (Route 143), further identified as Assessor's Parcel No. 10-2-1, subject to the following conditions:

1. This approval shall authorize a 9400-square foot addition to the existing James-York Plaza shopping center located on a 15.7-acre parcel of land at 701A Merrimac Trail (Route 143), further identified as Assessor's Parcel No. 10-2-1.
2. A site plan prepared in accordance with the provisions set forth in Article V of the York County Zoning Ordinance shall be submitted to and approved by the Department of Environmental Services, Division of Development and Compliance, prior to the commencement of any land clearing or construction activities on the subject property. Said site plan shall be in substantial conformance with the concept plan titled "Overall Plan: Additional Shops at James York Plaza," prepared by The Sirine Group, Ltd., dated September 15, 2004 and revised December 23, 2004.
3. Said site plan shall include a landscape plan showing additional plantings of trees and shrubs, either in the parking lot or around its perimeter, in accordance with the provisions of Section 24.1-606 of the Zoning Ordinance.
4. The building addition shall be of an architectural style, design, and color compatible with the existing shopping center buildings.

On roll call the vote was:

Yea: (5) Bowman, Shepperd, Zaremba, Noll, Burgett
Nay: (0)

CLOSED MEETING. At 9:47 p.m. Mr. Zaremba moved that the meeting be convened in Closed Meeting pursuant to Section 2.2-3711(a)(1) of the Code of Virginia pertaining to appointments to Boards and Commissions.

On roll call the vote was:

Yea: (5) Shepperd, Zaremba, Noll, Bowman, Burgett
Nay: (0)

Meeting Reconvened. At 9:57 p.m. the meeting was reconvened in open session by order of the Chair.

January 18, 2005

Mrs. Noll moved the adoption of proposed Resolution SR-1 that reads:

A RESOLUTION TO CERTIFY COMPLIANCE WITH THE FREE-
DOM OF INFORMATION ACT REGARDING MEETING IN CLOSED
MEETING

WHEREAS, the York County Board of Supervisors has convened a closed meeting on this date pursuant to an affirmative recorded vote and in accordance with the provisions of the Virginia Freedom of Information Act; and

WHEREAS, Section 2.2-3711.1 of the Code of Virginia requires a certification by the York County Board of Supervisors that such closed meeting was conducted in conformity with Virginia law;

NOW, THEREFORE, BE IT RESOLVED by the York County Board of Supervisors this the 18th day of January, 2005, hereby certifies that, to the best of each member's knowledge, (1) only public business matters lawfully exempted from open meeting requirements by Virginia law were discussed in the closed meeting to which this certification resolution applies, and (2) only such public business matters as were identified in the motion convening the closed meeting were heard, discussed, or considered by the York County Board of Supervisors.

On roll call the vote was:

Yea: (5) Zaremba, Noll, Bowman, Shepperd, Burgett
Nay: (0)

APPOINTMENT TO THE YORK COUNTY LIBRARY BOARD

Mr. Bowman moved the adoption of proposed Resolution R04-167 that reads:

A RESOLUTION TO APPOINT A REPRESENTATIVE TO THE YORK
COUNTY LIBRARY BOARD

WHEREAS, the term of Elizabeth C. Rogers as a member of the York County Library Board expired on December 31, 2004, and she has expressed her desire not to be considered for reappointment;

NOW, THEREFORE, BE IT RESOLVED by the York County Board of Supervisors this 18th day of January 2005, that MaryAnn Browne be, and is hereby, appointed as a representative to the York County Library Board for a term of four years, such term to begin immediately and end December 31, 2008.

On roll call the vote was:

Yea: (5) Noll, Bowman, Shepperd, Zaremba, Burgett
Nay: (0)

APPOINTMENT TO THE YORK-POQUOSON SOCIAL SERVICES BOARD

Mr. Shepperd moved the adoption of proposed Resolution R05-4 that reads:

A RESOLUTION TO REAPPOINT A YORK COUNTY REPRESENTATIVE
TO THE YORK-POQUOSON SOCIAL SERVICES BOARD

BE IT RESOLVED by the York County Board of Supervisors this 18th day of January 2005, that Belinda Willis, be and is hereby, appointed to the York-Poquoson Social Services Board for a term of four years, such term to begin immediately and end December 31, 2008.

On roll call the vote was:

Yea: (5) Bowman, Shepperd, Zaremba, Noll, Burgett
Nay: (0)

APPOINTMENT TO THE STORMWATER ADVISORY COMMITTEE

Mr. Zaremba moved the adoption of proposed Resolution R05-3 that reads:

A RESOLUTION TO APPOINT A MEMBER TO THE STORMWATER
ADVISORY COMMITTEE

WHEREAS, the term of Edward Moninger, District 1, to the York County Stormwater Advisory Committee expired on November 30, 2004, and Mr. Moninger does not wish to be considered for reappointment;

NOW, THEREFORE, BE IT RESOLVED by the York County Board of Supervisors this the 18th day of January, 2005, that the following individual be, and is hereby, appointed as a voting member to the York County Stormwater Advisory Committee, such appointment to take effect immediately and expire on December, 2006.

Robert Groves

On roll call the vote was:

Yea: (5) Shepperd, Zaremba, Noll, Bowman, Burgett
Nay: (0)

Meeting Adjourned. At 10:02 p.m. Chairman Burgett declared the meeting adjourned sine die.

James O. McReynolds, Clerk
York County Board of Supervisors

James S. Burgett, Chairman
York County Board of Supervisors